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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/068,589	02/06/2002	Stephen S. Raskin	7732-02045	8286

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EXAMINER

HORTON, YVONNE MICHELE

ART UNIT PAPER NUMBER

3635

DATE MAILED: 01/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
10/068,589

Applicant(s)
Stephen Raskin et al.

Examiner
YVONNE M. HORTON

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3635



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jan 3, 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-19 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 13-19 is/are rejected.
- 7) ☒ Claim(s) 10-12 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Feb 6, 2002 is/are a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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DETAILED ACTION

Response to Amendment

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Withdrawal of Previously Indicated Allowable Subject Matter

2. The indicated allowableness of claim 4 is withdrawn in view of a closer review of the reference(s) to SIMME. Rejections based on the newly cited reference(s) follow.

Double Patenting

3. Claim 17 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 16. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim 16 defines an "extruded" member consisting of struts and a transverse web. However, claim 17 again defines that the struts and webs are "extruded". If the struts and the webs are a part of the "extruded" member, there is no need to reidentify the fact that the struts and webs are "extruded".

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Claim Rejections - 35 USC § 102

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #4,944,545 to SIMME. SIMME discloses the use of a structural beam member including an extruded elongated member (4) having a plurality of walls (colored red) having an interior surface (IS) and an exterior surface (EX) wherein a plurality of elongated rails (5) fixedly connected to a central portion of the interior surface (IS), see the marked attachment; and an elongated reinforcing slat (6) defining a plurality of channels (7) that receive the plurality of rails (7). In reference to claim 2, the beam has a generally rectangular cross-section, see figure 2. Regarding claim 3, the reinforcing slat (6) is metal, column 1, last line. In reference to claim 4, the reinforcing slat (6) further includes a secondary projection (10) for receiving secondary reinforcing slat (8).

6. Claim 5-7 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #3,070,197 to MUSSELMAN. MUSSELMAN discloses the use of a structural member for making a frame (5) wherein the structural member includes an elongated element (10) having a plurality of walls (14) each having an inner surface (IS) and an outer surface (OS), see the marked attachment. The outer surface (OS) defines a plurality of corrugations (18) fixedly connected to a central portion thereof. Corrugations (18) inherently comprise a plurality of alternating “rails”/ “projections and “channels”. The structural member also includes a

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reinforcing slat (11) having a plurality of corrugations (24). Corrugations (24) inherently comprise a plurality of alternating “rails”/“projections” and “channels”. Hence, the channels (24) of the corrugations receive the rails (18) of the opposing corrugations. In reference to claim 6, the structural element is generally rectangular shaped, see figure 3. Regarding claim 7, the reinforcing slat (11) is made from metal, column 1, lines 15 and 18.

7. Claim 8 is rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #4,944,545 to SIMME. SIMME discloses the use of a support member including a generally hollow, extruded, elongated member (4,6,8) having a plurality of walls (colored red) having an interior surface (IS) and an exterior surface (EX) wherein a plurality of elongated rails (5) fixedly connected to a central portion of the interior surface (IS), see the marked attachment. The member (6) of the rectangular member is an elongated reinforcing slat (6) defining a plurality of channels (7) that receive the plurality of rails (7).

8. Claims 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #4,944,545 to SIMME. The structure of SIMME inherently discloses the method of reinforcing a support member including the steps of providing an extruded, hollow, elongated beam member (4) having a plurality of walls (colored red) having an interior surface (IS) and an exterior surface (EX) wherein a plurality of elongated rails (5) fixedly connected to a central portion of the interior surface (IS), see the marked attachment; providing an elongated reinforcing insert (6) defining a plurality of channels (7), and connecting the insert (6) to the beam (4) by inter-fitting the plurality of rails (5) with the plurality of channels (7). In reference to claim 14, the method

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further includes incorporating a plurality of the beams (4) into an architectural structure (2,3).

Regarding claim 15, the reinforcing slat (6) is metal, column 1, last line and column 2, line 5.

9. Claims 16,17 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #4,122,647 to KOVAR. KOVAR discloses the use of a rectangular strut (10) having four wall (12-15) that meet at corner intersections and define a space; wherein a transverse web (16,17) extends from one corner to a diagonally opposing corner. Regarding claims 16 and 17, the applicant is reminded that the method of forming a device is not given patentable consideration unless the method defines the structure in a manipulative sense. The device of KOVAR can be both metal and plastic. Both metal and plastic are commonly known for being "extruded". Hence, the device of KOVAR is inherently "extruded". Regarding claim 19, the struts (12-15) and webs (16,17) are metal, column 3, lines 5-7.

Claim Rejections - 35 USC § 103

10. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

11. Claims 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #4,122,647 to KOVAR. KOVAR discloses the basic claimed bracing member except for explicitly detailing that his device is "extruded". Although KOVAR is silent in this regard, the applicant is reminded that the method of forming a device is not given patentable consideration unless the method defines the structure in a manipulative sense. The device of KOVAR can be both metal and plastic. Both metal and plastic are commonly known for being "extruded".

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Hence, in regards to claim 17, it would have been obvious to one having ordinary skill in the art at the time the invention was made that the device of KOVAR is "extruded". In reference to claim 18, the member of KOVAR forms a support for an interconnecting arrangement of beams (11). Although the figures of KOVAR appear to show that the beams (11) are wood, it would have been obvious to one having ordinary skill in the art to select a known material for the use intended as an obvious matter of design choice. For instance, if the beams were being used for flooring used to seat heavy equipment, the beams might be formed from an extruded material. Whereas, beams used in the floor of a residential home might be wood beams.

Allowable Subject Matter

12. Claims 10-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

13. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record fails to teach the use of support members including the combination of outwardly flared rails and channels.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703) 308-1909.

YMH
Primary Examiner
January 5, 2004

